

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

NATIONAL URBAN LEAGUE, and  
others,

Plaintiffs,

v.

WILBUR L. ROSS, JR., and others,  
Defendants.

Case No. 20-cv-05799 LHK

**ORDER AFTER IN CAMERA  
REVIEW OF DOCUMENTS  
IDENTIFIED ON DEFENDANTS'  
OCTOBER 4 PRIVILEGE LOG**

This order sets forth our rulings on evidentiary privileges asserted by defendants in a privilege log filed October 4 at ECF 295-2. A declaration from Megan Heller accompanied the log. ECF 295-3. We ordered in camera submission of the privileged documents and the defendants complied. ECF 299. Plaintiffs then objected to the privilege assertions and defendants replied. ECF 304, 305. Defendants filed a second Heller declaration with their reply. ECF 305-1.

The October 4 log is the fourth privilege log filed by defendants in this case. The log accompanies documents produced and indexed by the defendants on October 4 at ECF 295. This production supplements earlier productions by defendants.

In prior rulings, we set forth the applicable legal standard framing our analysis of

the asserted privileges for the attorney-client privilege (ECF 174) and the deliberative process privilege (ECF 179, ECF 253). We apply that same analysis here to the documents identified on the October 4 log.

There are 17 documents identified on the October 4 log. ECF 295-2. As to 14 of the documents, the log refers to a redacted portion of a document. Three documents were withheld in full. Our rulings on the asserted attorney-client (A-C) and deliberative process (DPP) privileges:

Doc. 14961: Sustain DPP.

Doc. 15123: Sustain A-C priv, overrule DPP.

Doc. 15231: Sustain A-C priv.

Doc. 15233: Sustain A-C priv.

Doc. 15469: Overrule A-C priv and DPP. \*

Doc. 15472: Overrule A-C priv and DPP. \*

Doc. 15480: Overrule A-C priv and DPP. \*

Doc. 15483: Overrule A-C priv and DPP. \*

Doc. 15491: Overrule A-C priv and DPP. \*

Doc. 15535: Overrule A-C priv. \*

Doc. 15538: Overrule A-C priv and DPP. \*

Doc. 15546: Overrule A-C priv and DPP. \*

Doc. 15627: Overrule DPP. \*

Doc. 15639: Overrule DPP. \*

Doc. 15827: Sustain DPP.

Doc. 15830: Sustain DPP.

Doc. 15935: Overrule DPP. \*

Where we overrule the attorney-client privilege, we find defendants did not establish that the communications conveyed legal advice. And where we overrule the deliberative process privilege, we find that the communications do not demonstrate

1 deliberations about things the agency might or might not do. Most of the withheld  
2 documents are edits to draft testimony or draft public statements.

3 For the 11 documents that we overrule the privilege assertions, defendants must  
4 produce and file the documents in unredacted format by noon Pacific time on October 6.  
5 Those documents are indicated with a \* in the list above.

6 **IT IS SO ORDERED.**

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8 Dated: October 6, 2020

9 \_\_\_\_\_/S/  
NATHANAEL M. COUSINS  
United States Magistrate Judge

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THOMAS S. HIXSON  
United States Magistrate Judge  
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United States District Court  
Northern District of California